

House File 2043 - Introduced

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BY WINDSCHITL

A BILL FOR

1 An Act relating to possessing and transferring firearm
2 suppressors, providing penalties, and including effective
3 date provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 724.1, subsection 1, paragraph h, Code
2 2016, is amended by striking the paragraph.

3 Sec. 2. NEW SECTION. **724.1A Firearm suppressors —**
4 **certification.**

5 1. As used in this section, unless the context otherwise
6 requires:

7 a. "*Certification*" means the participation and assent of
8 the chief law enforcement officer of the jurisdiction where the
9 applicant resides or maintains an address of record, that is
10 necessary under federal law for the approval of an application
11 to make or transfer a firearm suppressor.

12 b. "*Chief law enforcement officer*" means the county sheriff,
13 chief of police, or the designee of such official, that the
14 federal bureau of alcohol, tobacco, firearms and explosives,
15 or any successor agency, has identified by regulation or has
16 determined is otherwise eligible to provide any required
17 certification for making or transferring a firearm suppressor.

18 c. "*Firearm suppressor*" means a mechanical device
19 specifically constructed and designed so that when attached to
20 a firearm it silences, muffles, or suppresses the sound when
21 fired and that is considered a "*firearm silencer*" or "*firearm*
22 *muffler*" as defined in 18 U.S.C. §921.

23 2. a. A chief law enforcement officer is not required
24 to make any certification under this section the chief law
25 enforcement officer knows to be false, but the chief law
26 enforcement officer shall not refuse, based on a generalized
27 objection, to issue a certification to make or transfer a
28 firearm suppressor.

29 b. When the certification of the chief law enforcement
30 officer is required by federal law or regulation for making or
31 transferring a firearm suppressor, the chief law enforcement
32 officer shall, within thirty days of receipt of a request for
33 certification, issue such certification if the applicant is
34 not prohibited by law from making or transferring a firearm
35 suppressor or is not the subject of a proceeding that could

1 result in the applicant being prohibited by law from making
2 or transferring the firearm suppressor. If the chief law
3 enforcement officer does not issue a certification as required
4 by this section, the chief law enforcement officer shall
5 provide the applicant with a written notification of the denial
6 and the reason for the denial.

7 *c.* A certification that has been approved under this section
8 grants the person the authority to make or transfer a firearm
9 suppressor as provided by state and federal law.

10 3. An applicant whose request for certification is denied
11 may appeal the decision of the chief law enforcement officer
12 to the district court for the county in which the applicant
13 resides or maintains an address of record. The court shall
14 review the decision of the chief law enforcement officer to
15 deny the certification de novo. If the court finds that the
16 applicant is not prohibited by law from making or transferring
17 the firearm suppressor, and is not the subject of a proceeding
18 that could result in such prohibition, or that no substantial
19 evidence supports the decision of the chief law enforcement
20 officer, the court shall order the chief law enforcement
21 officer to issue the certification and award court costs and
22 reasonable attorney fees to the applicant. If the court
23 determines the applicant is not eligible to be issued a
24 certification, the court shall award court costs and reasonable
25 attorney fees to the political subdivision of the state
26 representing the chief law enforcement officer.

27 4. In making a determination about whether to issue a
28 certification under subsection 2, a chief law enforcement
29 officer may conduct a criminal background check, including
30 an inquiry of the national instant criminal background check
31 system maintained by the federal bureau of investigation or
32 any successor agency, but shall only require the applicant to
33 provide as much information as is necessary to identify the
34 applicant for this purpose or to determine the disposition of
35 an arrest or proceeding relevant to the eligibility of the

1 applicant to lawfully possess or receive a firearm suppressor.
2 A chief law enforcement officer shall not require access to
3 or consent to inspect any private premises as a condition of
4 providing a certification under this section.

5 5. A chief law enforcement officer and employees of the
6 chief law enforcement officer who act in good faith are immune
7 from liability arising from any act or omission in making a
8 certification as required by this section.

9 Sec. 3. NEW SECTION. **724.1B Firearm suppressors — penalty.**

10 1. A person shall not possess a firearm suppressor in this
11 state if such possession is knowingly in violation of federal
12 law.

13 2. A person who possesses a firearm suppressor in violation
14 of subsection 1 commits a class "D" felony.

15 Sec. 4. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
16 immediate importance, takes effect upon enactment.

17 EXPLANATION

18 The inclusion of this explanation does not constitute agreement with
19 the explanation's substance by the members of the general assembly.

20 This bill relates to the possession and transferring of
21 firearm suppressors.

22 FIREARM SUPPRESSORS. Current Iowa law provides that a
23 mechanical device specifically constructed and designed so that
24 when attached to a firearm it silences, muffles, or suppresses
25 the sound when fired is an offensive weapon. Under Code
26 section 724.3, any person who knowingly possesses an offensive
27 weapon commits a class "D" felony, punishable by confinement
28 for no more than five years and a fine of at least \$750 but not
29 more than \$7,500.

30 The bill strikes a provision in Code section 724.1(1)(h)
31 that classifies a firearm suppressor as an offensive weapon.
32 By striking this provision, a firearm suppressor is legal to
33 possess in the state.

34 The bill also creates in new Code section 724.1A, a process
35 whereby a person may apply to the chief law enforcement officer

1 of the jurisdiction where the person resides or maintains an
2 address of record for a certification to make or transfer a
3 firearm suppressor. The bill defines "firearm suppressor" to
4 mean a mechanical device specifically constructed and designed
5 so that when attached to a firearm it silences, muffles, or
6 suppresses the sound when fired and that is considered a
7 "firearm silencer" or "firearm muffler" as defined in 18 U.S.C.
8 §921.

9 The bill specifies that a chief law enforcement officer
10 shall not refuse to provide certification, based on a
11 generalized objection, to an applicant requesting to make
12 or transfer a firearm suppressor. If a person applies for
13 certification to make or transfer a firearm suppressor with
14 the chief law enforcement officer, the bill requires the chief
15 law enforcement officer to issue the certification within 30
16 days of receiving such an application unless the applicant
17 is prohibited by law from making or transferring a firearm
18 suppressor or the applicant is the subject of a proceeding that
19 could result in the applicant being prohibited by law from
20 making or transferring a firearm suppressor. If the chief
21 law enforcement officer does not issue a certification under
22 the bill, the chief law enforcement officer shall provide the
23 applicant a written notification of the denial and the reason
24 for the denial. If the certification has been approved by the
25 chief law enforcement officer under the bill, the applicant
26 has the authority to make or transfer a firearm suppressor as
27 provided by state and federal law.

28 If the applicant's request for certification is denied,
29 the bill specifies that the applicant may appeal the decision
30 to the district court for the county in which the applicant
31 resides or maintains an address of record. The bill specifies
32 that the court shall review the decision of the chief law
33 enforcement officer to deny the certification de novo. If the
34 court finds that the applicant is not prohibited by law from
35 making or transferring a firearm suppressor, and is not the

1 subject of a proceeding that could result in such prohibition,
2 or that no substantial evidence supports the decision of the
3 chief law enforcement officer, the bill requires the court
4 to order the chief law enforcement officer to issue the
5 certification and award court costs and reasonable attorney
6 fees to the applicant. If the court determines the applicant
7 is not eligible to be issued a certification, the bill requires
8 the court to award court costs and reasonable attorney fees to
9 the political subdivision of the state representing the chief
10 law enforcement officer.

11 In making a determination about whether to issue a
12 certification under the bill, a chief law enforcement officer
13 may conduct a criminal background check, but shall only require
14 the applicant to provide as much information as is necessary
15 to identify the applicant for this purpose or to determine
16 the disposition of an arrest or proceeding relevant to the
17 eligibility of the applicant to lawfully make or transfer a
18 firearm suppressor. The bill prohibits a chief law enforcement
19 officer from requiring access to any private premises as a
20 condition of providing a certification under this new Code
21 section.

22 A chief law enforcement officer and employees of the chief
23 law enforcement officer who act in good faith are immune
24 from liability arising from any act or omission in making a
25 certification under the bill.

26 The bill provides that a person commits a class "D" felony if
27 the person possesses a firearm suppressor and such possession
28 is knowingly in violation of federal law.

29 The bill takes effect upon enactment.